

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Bobby J. Reid,

Plaintiff,

vs.

Letitia Verdin, Henry J. Mills, W. Walter
Wilkins, Candace F. Clark, Daniel R.
Hughes, Evan C. Bramhall, John B.
Duggan, Ann Marie Howell, James E.
Hudson, and Howard Steinburg,

Defendant.

Civil Action No. 6:18-987-BHH

ORDER AND OPINION

This matter is once again before the Court for review of the Report and Recommendation of United States Magistrate Judge Kevin F. McDonald made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South Carolina. On July 13, 2018, the Magistrate Judge issued a Report and Recommendation ("Report") recommending that this case be dismissed *without* prejudice and without issuance and service of process. (ECF No. 31.)

The Court initially adopted the Report (ECF No. 31) on August 14, 2018. On August 20 and 21, 2018, Plaintiff filed objections (ECF No. 38) to Magistrate Judge McDonald's prior orders denying him bond and appointed counsel, as well as a motion to amend the complaint (ECF No. 39). The motion to amend the complaint was denied as moot on August 24, 2018. (ECF No. 42.) Plaintiff then filed a motion for reconsideration (ECF No. 44) asserting that he never received a copy of the Report prior to the Court's adoption thereof. On January 9, 2019, the Court granted Plaintiff's motion for reconsideration and vacated its previous order adopting the Report. (ECF No. 52.) The case was reopened and Plaintiff was granted thirty (30) days in which to

file his objections to the Report, if any. On January 28, 2019, Plaintiff filed a motion for copies (ECF No. 56), stating he still had not received a copy of the Report. The motion was granted in part, and the Report was mailed to Plaintiff, along with the public docket sheet, on January 31, 2019. (ECF No. 57.) Plaintiff was, again, granted thirty (30) days from the entry of the Text Order granting in part the motion for copies in which to file his objections. (*Id.*) Plaintiff filed objections on March 7, 2019¹ (ECF No. 63), as well as a motion for copies at no expense (ECF No. 65) on May 13, 2019, which was subsequently denied (ECF No. 67).

STANDARD OF REVIEW

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). However, the Court need not conduct a *de novo* review when a party makes only “general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of a timely filed, specific objection, the Magistrate Judge’s conclusions are reviewed only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

DISCUSSION

¹ **Error! Main Document Only.** This filing date reflects that the envelope containing the petition was stamped as having been received on May 7, 2019, by the McDougall Correctional Institution Mailroom. (ECF No. 63-1.) *Houston v. Lack*, 487 U.S. 266 (1988) (holding prisoner’s pleading is considered filed when given to prison authorities for forwarding to the district court).

As noted above, Plaintiff filed objections to the Magistrate Judge's Report, which the Court has carefully reviewed. The objections, though verbose, fail to state any specific objection to the Magistrate Judge's sound reasoning or direct the Court to any specific error in the proposed findings and recommendation that this action be dismissed without prejudice and without issuance and service of process for failure to state a claim. Nevertheless, in an abundance of caution the Court has conducted a *de novo* review. After careful review, the Court agrees with the Magistrate Judge's comprehensive and well-reasoned Report. The Court finds that the Magistrate Judge fairly and accurately summarized the facts, applied the correct principles of law, and committed no error. Moreover, the Court finds that Plaintiff's objections lack merit, and they are hereby overruled.

CONCLUSION

For the reasons stated above and by the Magistrate Judge, the Court overrules Plaintiff's objections, and adopts and incorporates by reference the Magistrate Judge's Report and Recommendation. Accordingly, this action is dismissed *without prejudice* and without issuance and service of process because the Court finds that Plaintiff cannot cure the defects in his complaint by mere amendment.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

June 3, 2019
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.